

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

FRANCISCO OROPEZA DURAN, *individually and on  
behalf of others similarly situated,*

*Plaintiff,*

- against -

MARKETPLACE 41, INC. (d/b/a BISTRO  
MARKETPLACE), MARKETPLACE 125 INC. (d/b/a  
BISTRO MARKETPLACE), SCOTT SHIN, and TONY  
CHOI,

*Defendants.*

Case No.: 1:17-cv-4388

**ANSWER**

Defendants Marketplace 41, Inc., Marketplace 125, Inc. and Scott Shin ("Defendants"),  
by and through their attorneys, Jung & Associates, P.C., as and for his answer to Plaintiff's  
Complaint, state as follows:

1. Defendants admit allegations in Paragraphs 24, 27, 53 and 84 of the Complaint
2. Defendants admit allegations in Paragraphs 4, 42 and 45 of the Complaint only as to Defendant Marketplace 125, Inc.
3. Defendants deny allegations in Paragraphs 1, 2, 3, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 21, 22, 23, 26, 31, 32, 33, 34, 37, 38, 39, 46, 47, 49, 50, 51, 52, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 77, 78, 79, 80, 82, 83, 85, 86, 87, 88, 89, 90, 91, 92, 94 and 98 of the Complaint.
4. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 11, 16, 17, 18, 19, 25, 35, 36, 41, 44, 76, 81, 95, 96, 97, 99 and 100 of the Complaint, and respectfully refer all questions of law to the Court.
5. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 20, 28, 29, 30, 40, 43, 48, 93, 101, 102, 103 and 104 of the Complaint.

**FIRST CAUSE OF ACTION**

6. Defendants repeat and reiterate answers contained in the foregoing answer with reference to paragraphs 1 through 104 hereof.
7. Defendants deny allegations in Paragraphs 109, 110 and 111 of the Complaint.
8. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 106, 107 and 108 of the Complaint, and respectfully refer all questions of law to the Court.

**SECOND CAUSE OF ACTION**

9. Defendants repeat and reiterate answers contained in the foregoing answer with reference to paragraphs 1 through 111 hereof.
10. Defendants deny allegations in Paragraphs 117 and 118 of the Complaint.
11. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 113, 114, 115 and 116 of the Complaint, and respectfully refer all questions of law to the Court.

**THIRD CAUSE OF ACTION**

12. Defendants repeat and reiterate answers contained in the foregoing answer with reference to paragraphs 1 through 118 hereof.
13. Defendants deny allegations in Paragraphs 122 and 123 of the Complaint.
14. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 120 and 121 of the Complaint, and respectfully refer all questions of law to the Court.

**FOURTH CAUSE OF ACTION**

15. Defendants repeat and reiterate answers contained in the foregoing answer with reference to paragraphs 1 through 123 hereof.
16. Defendants deny allegations in Paragraphs 125, 126 and 127 of the Complaint.

**FIFTH CAUSE OF ACTION**

17. Defendants repeat and reiterate answers contained in the foregoing answer with reference to paragraphs 1 through 127 hereof.
18. Defendants deny allegations in Paragraph 129, 130 and 131 of the Complaint.

**SIXTH CAUSE OF ACTION**

19. Defendants repeat and reiterate answers contained in the foregoing answer with reference to paragraphs 1 through 131 hereof.

20. Defendants deny allegations in Paragraphs 133 and 134 of the Complaint.

**SEVENTH CAUSE OF ACTION**

21. Defendants repeat and reiterate answers contained in the foregoing answer with reference to paragraphs 1 through 134 hereof.

22. Defendants deny allegations in Paragraphs 136 and 137 of the Complaint.

**EIGHTH CAUSE OF ACTION**

23. Defendants repeat and reiterate answers contained in the foregoing answer with reference to paragraphs 1 through 137 hereof.

24. Defendants deny allegations in Paragraphs 140, 141 and 142 of the Complaint.

25. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 138 and 139 of the Complaint, and respectfully refer all questions of law to the Court.

**FIRST AFFIRMATIVE DEFENSE**

26. Plaintiff fails to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

27. The Court does not have personal jurisdiction over Defendants.

**THIRD AFFIRMATIVE DEFENSE**

28. The Court does not have subject matter jurisdiction over Defendants.

**FOURTH AFFIRMATIVE DEFENSE**

29. The service to Defendants was improper.

**FIFTH AFFIRMATIVE DEFENSE**

30. Documentary Evidence shows that Defendants cannot be parties of this action.

**SIXTH AFFIRMATIVE DEFENSE**

31. Defendant MARKETPLACE 41, Inc. cannot be a party to this case because it did not operate any business at 125 Park Avenue, New York, NY 10168 from August 2013 to April 2017.

**SEVENTH AFFIRMATIVE DEFENSE**

32. Defendant Tony Choi cannot be a party of this case.

**EIGHTH AFFIRMATIVE DEFENSE**

33. Plaintiff has failed to join all parties necessary for a proper determination of the issues in this action.

**NINTH AFFIRMATIVE DEFENSE**

34. Defendants reserve the right to assert additional defenses.

**RELIEF REQUESTED**

**WHEREFORE,** Defendants respectfully request the following relief:

1. A judgment in favor of Defendants denying all of Plaintiff's relief requested in its Complaint in this action and dismissing Plaintiff's Complaint with prejudice;
2. That Defendants be awarded their costs of suit, including reasonable attorney's fees, and;
3. That the Court award Defendants such other and further relief as the Court deems just and proper.

Dated: July 17, 2017  
New York, New York

Respectfully submitted,

/s/ Henry Hong K. Jung

Henry Hong K. Jung, Esq.

Jung & Associates, PC

*Attorneys for Defendants Marketplace 41, Inc.,*

*Marketplace 125, Inc. and Scott Shin*

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